

Proposed Language  
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Water Court Advisory Committee  
LCw002

July 17, 2018

Exhibit 10

Bill Title – page 1

A Bill for an Act entitled: "An Act revising the motion to amend a water right statement of claim to restrict publication requirements; ~~eliminating~~ REVISING final decree requirements for reserved water rights; providing deadlines to appeal decisions of the water court; and amending sections 85-2-233, 85-2-234, and 85-2-235, MCA."

Amendment to 85-2-233(6) – page 5

(e) A motion to amend a statement of claim or timely objection may not be filed under this subsection after that claim or objection has been SUBJECT TO AN ORDER THAT IS APPEALABLE UNDER 85-2-235 included in a preliminary or supplemental decree and the objection period for claims in that decree has closed. Review of timely filed motions to amend is not automatic and rests within the discretion of the water court.

(This is the language originally recommended by the Water Court Advisory Committee working through its drafting subcommittee)

Amendment to 85-2-235(2) – page 10-11

(2) The attorney general may appeal a determination made in a final decree if the attorney general participated as an intervenor as provided in 85-2-248. (a) An order issued by a water judge after October 1, 2018, the conclusion of the process set forth in 85-2-248, or a claim being reviewed on the court's own motion that confirms, terminates, amends, or otherwise modifies a water right that was set forth in a temporary preliminary decree, preliminary decree, or supplemental preliminary decree may be appealed by any party who participated in the particular proceedings in which the order was issued.

(b) The order must be appealed immediately in accordance with the Montana Rules of Appellate Procedure or the right to appeal is waived.

(3) An interlocutory ruling by the water judge upon a question of law may be appealed by any party who is affected by the decision and who participated in the matter in which the ruling was issued. (a) An order that would otherwise be appealable under subsection (2) that was issued prior to October 1, 2018, must be appealed within 24 months after BY October 1, 2018 2020. Any eligible appeal not filed by October 1, 2018 2020, is waived.

(b) Within 30 days after October 1, 2018, the water court or the department shall publish notice OF THE APPEAL DEADLINE PROVIDED IN THIS SUBSECTION once a week for 3 consecutive weeks in at least three TWO newspapers of general circulation that cover the WITHIN EACH water division in which an appealable order under subsection (3)(a) has been issued.

(c) Within 6 months after October 1, 2018, the water court or the department shall send written notice of the appeal deadline PROVIDED IN THIS SUBSECTION to all parties entitled to receive notice of the availability of a decree under 85-2-232. Written notice must be provided within each basin in which the court has issued an order subject to appeal under subsection (3)(a).